

~~and (4), which – like the other provisions of the Credit Card Act implemented in the July 2009 Regulation Z Interim Final Rule – went into effect on August 20, 2009. See Credit Card Act § 101(a) (new TILA Section 127(i)(3)–(4)). However, several aspects of § 226.9(h) were based on revised TILA Section 171, which – like the other statutory provisions addressed in this proposed rule – goes into effect on February 22, 2010. Accordingly, because the Board is now implementing revised TILA Section 171 in proposed § 226.55, the Board proposes to modify § 226.9(h) for clarity and consistency.~~

#### Application of Right to Reject to Increases in Annual Percentage Rate

Because revised TILA Section 171 renders the right to reject redundant in the context of rate increases, the Board proposes to amend § 226.9(h) to apply that right **only** to other significant changes to an account term. Currently, § 226.9(h) provides that, if a consumer rejects an increase in an annual percentage rate prior to the effective date stated in the § 226.9(c) or (g) notice, the creditor cannot apply the increased rate to transactions that occurred within fourteen days after provision of the notice. See § 226.9(h)(2)(i), (h)(3)(ii). However, under revised TILA Section 171 (as implemented in proposed § 226.55), a creditor is generally prohibited from applying an increased rate to transactions that occurred within fourteen days after provision of a § 226.9(c) or (g) notice regardless of whether the consumer rejects that increase. Similarly, although the exceptions in § 226.9(h)(3)(i) and revised TILA Section 171(b)(4) permit a creditor to apply an increased rate to an existing balance when an account becomes more than 60 days delinquent, revised TILA Section 171(b)(4)(B) (as implemented in proposed § 226.55(b)(4)(ii)) provides that the creditor must terminate the increase if the consumer makes the next six payments on or before the payment due date. **Thus, with respect to**

rate increases, the right to reject does not provide consumers with any meaningful protections beyond those provided by revised TILA Section 171. Accordingly, the Board believes that, on or after February 22, 2010, the right to reject will be unnecessary for rate increases. Indeed, once revised TILA Section 171 becomes effective, notifying consumers that they have a right to reject a rate increase could be misleading insofar as it could imply that a consumer who does so will receive some additional degree of protection (such as protection against increases in the rate that applies to future transactions).

Accordingly, the Board proposes to remove references to rate increases from § 226.9(h) and its commentary. Similarly, because the exception in § 226.9(h)(3)(ii) for transactions that occurred more than fourteen days after provision of the notice is based on revised TILA Section 171(d),<sup>15</sup> the Board proposes to remove that exception from § 226.9(h) and incorporate it into proposed § 226.55. Finally, the Board proposes to redesignate comment 9(h)(3)-1 as comment 9(h)-1 and amend it to clarify that § 226.9(h) does not apply to increases in an annual percentage rate.

#### Repayment Restrictions

~~Because the repayment restrictions in § 226.9(h)(2)(iii) are based on revised TILA Section 171(c), the Board believes that those restrictions should be implemented with the rest of revised Section 171 in proposed § 226.55. Section 226.9(h)(2)(iii) implemented new TILA Section 127(i)(4), which expressly incorporated the repayment methods in revised TILA Section 171(c)(2). Because the rest of revised Section 171 would not be effective until February 22, 2010, the July 2009 Regulation Z Interim Final Rule~~

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<sup>15</sup> ~~See 74 FR 36089-36090.~~